

**REMARKS**

Claims 29-31, 33-36, and 45-50 were pending in the present application. Claims 37-44 were withdrawn from consideration. By virtue of this response, claim 29 has been amended. Accordingly, claims 29-31, 33-36, and 45-50 are currently under consideration. Amendment and cancellation of certain claims is not to be construed as a dedication to the public of any of the subject matter of the claims as previously presented. No new matter has been added.

**Rejections under 35 USC § 112**

Claims 29-31, 33-36, and 45-50 are rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In response, claim 29 has been amended to recite “an analyte measurement generator which is coupled to the glucose monitor device and calculates within the device, blood glucose levels calculated from measurements obtained from a skin surface of the patient which is placed against the glucose monitor device” to particularly point out and distinctly claim the subject matter. (See specification, [0016].)

**Rejections under 35 USC § 103(a)**

A. Claims 29, 30, 33-36, and 45-50 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Heinonen '020 in view of Heinonen '586 and Rosenthal for the reasons set forth in paragraphs 8 and 9 of the Office action mailed October 4, 2006.

In response, independent claim 29 has been amended to recite “an analyte measurement generator which is coupled to the glucose monitor device and calculates within the device, blood glucose levels calculated from measurements obtained from a skin surface of the patient which is placed against the glucose monitor device.” (Specification, [0016].) As described, once the measurements are obtained from the skin surface of the patient, blood glucose levels are calculated locally within the device by the analyte measurement generator and the calculated analyte measurements, as well as any behavior attributes, physiological attributes, etc., are then communicated externally by the device. (Specification, [0019].)

On the other hand, Heinonen '020 and '586 both teach a system where certain measurement data input by the patient are transmitted to a separate hospital data processing system which receives the input data from the patient's mobile phone and then transmits it directly to the hospital data processing system. This separate processing system calculates predictive blood glucose values and then transmits it back to the patient's mobile phone. (Heinonen '020, 3: 54 – 4: 45 & Heinonen '586, 3: 56 – 4: 31.) Thus, Heinonen '020 and '586 both fail to show or teach a glucose monitor device having an analyte measurement generator which determines blood glucose levels calculated locally and directly within the device using measurements obtained from a skin surface of the patient. Therefore, both Heinonen '020 and Heinonen '586 fail to show or teach the features of claim 29, as amended.

Moreover, Rosenthal teaches a non-invasive glucose sensor that performs measurements through a subject's finger. However, as described in the specification and further in 09/547,433 (US 6,424,851), which was incorporated by reference, the analyte measurement generator is coupled to the glucose monitor device and calculates the blood glucose level present on "a skin surface of the patient which is placed against the glucose monitor device" as claimed, rather than from near-infrared energy transmitted through and emerging from a patient's body part. (Rosenthal, 5: 2-7 & Fig. 2.)

Therefore, Heinonen '020, Heinonen '586, and Rosenthal, either alone or in combination, necessarily fail to teach the features of claim 29, as amended. Dependent claims 30, 33-36, and 45-50 each depend ultimately from claim 29 and are thus patentable for at least the same reasons. Accordingly, Applicants respectfully request the reconsideration and withdrawal of the rejections under 35 U.S.C. § 103(a).

**B.** Claim 31 is rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Heinonen '020, Heinonen '586, and Rosenthal as applied to claim 29 above, and further in view of Mault.

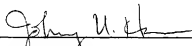
In response, claim 31 depends from independent claim 29 and is patentable over Heinonen '020, Heinonen '586, and Rosenthal as applied to claim 29 above, and further in view of Mault for at least the same reasons above. Accordingly, Applicants respectfully request the reconsideration and withdrawal of the rejections under 35 U.S.C. § 103(a).

**CONCLUSION**

In view of the above, each of the presently pending claims in this application is believed to be in condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejections and pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the appropriate fee and/or petition is not filed herewith and the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with this filing to **Deposit Account No. 50-3973** referencing Attorney Docket No. **VVMDNZ00201**. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,



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